

REMARKS

Claims 12-20 are pending in the present application, of which Claims 12, 16 and 20 are independent. Claim 1-11 have been canceled without prejudice. Claims 12-20 are newly added claims. Support for the amendment may be found throughout the specification and drawings.

I. REJECTION UNDER 35 U.S.C. §112

Claims 3 and 4 were rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 3 and 4 have been canceled without prejudice.

II. REJECTION UNDER 35 U.S.C. §102

The Patent Office rejected Claims 2, 5, 6 and 9 under 35 U.S.C. §102(b) as being allegedly anticipated by U.S. Patent No. 5,325,434 issued to Spaanderman et al. (hereinafter "Spaanderman"). The rejection is respectfully traversed in its entirety. However, Claims 2, 5, 6 and 9 have been canceled without prejudice.

Anticipation requires the disclosure in a single prior art reference of each element of the claim under consideration. *W.L. Gore & Assocs. v. Garlock*, 721 F.2d 1540, 220 USPQ 303 (Fed. Cir. 1983), cert. denied, 469 U.S. 851 (1984). Further, "anticipation requires the presence in a single prior art reference disclosure of each and every element of the claimed invention, arranged as in the claim." *Lindemann Maschinenfabrik GmbH v. American Hoist & Derrick Co.*, 730 F.2d 1452, 221 USPQ 481, 485 (Fed. Cir. 1984) (citing *Connell v. Sears, Roebuck & Co.*, 722 F.2d 1542, 220 USPQ 193 (Fed. Cir. 1983)) (emphasis added).

According to one aspect of the present invention, a processor within a wireless communication device generates a public key upon termination of wireless communication. When a user of the wireless communication device desires to initiate a secure communication subsequent to the previous communication, the public key that

was generated upon termination of the previous communication is used to engage in secure communications with a second communication device.

Independent Claim 12 recites, among other things, an element of "generating, upon termination of the first wireless communication, a second public key for use in a second wireless communication, wherein the second public key is independent of the first public key" (emphasis added). Applicants respectfully submit that this element is not taught, disclosed, or suggested by Spaanderman, since in Spaanderman "the subsequent first key value is a function of at least the first key value and the subsequent second key value is a function of at least the second key value" (emphasis added) (col. 2, ll. 26-29) and "the subsequent first and second key value, respectively, ... is a function of the instantaneous first and second key value, respectively, and which may be a function of also the first and the second control signal, respectively" (emphasis added) (col. 8, ll. 13-16). Thus, according to Spaanderman, there is some relationship between an instantaneous key value and a subsequent key value, which is contrary to "wherein the second public key is independent of the first public key" (emphasis added), as recited in Claim 12. Thus, Claim 12 is allowable.

Claims 16 and 20 each recite an element similar to the foregoing described element of Claim 12 and are thus allowable since Claim 12 is allowable.

III. REJECTION UNDER 35 U.S.C. §103

The Patent Office rejected Claims 3-4, 7-8 and 10-11 under 35 U.S.C. §103 as being unpatentable over Spaanderman in view of U.S. Patent No. 5,319,711 issued to Servi (hereinafter "Servi"). The rejection is respectfully traversed in its entirety. However, Claims 3-4, 7-8 and 10-11 have been canceled without prejudice.

"To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations." (emphasis added) (MPEP § 2143). If an

independent claim is nonobvious under 35 U.S.C. 103, then any claim depending therefrom is nonobvious. (emphasis added) *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988).

As indicated in the foregoing section II. **REJECTION UNDER 35 U.S.C. §102**, Spaanderman fails to teach, disclose, or suggest all the element of independent Claims 12, 16 and 20. Furthermore, all the element of independent Claims 12, 16 and 20 are also *not* taught, disclosed, or suggested by Spaanderman in view of Servi.

Moreover, according to Spaanderman, “the subsequent first key value is a function of at least the first key value and the subsequent second key value is a function of at least the second key value” (emphasis added) (col. 2, ll. 26-29) and “the subsequent first and second key value, respectively, ... is a function of the instantaneous first and second key value, respectively, and which may be a function of also the first and the second control signal, respectively” (emphasis added) (col. 8, ll. 13-16). Thus, Spaanderman teaches away from Claims 12, 16 and 20, where “the second public key is independent of the first public key” (emphasis added).

Therefore, independent Claims 12, 16 and 20 are nonobvious under 35 U.S.C. § 103.

Claims 13-15 and 17-19 depend from Claims 12 and 16, respectively, and are therefore nonobvious due to their dependence.

Thus, Claims 13-15 and 17-19 are allowable.

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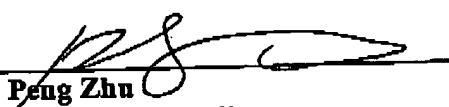
CONCLUSION

In light of the amendments contained herein, Applicants respectfully submit that the application is in condition for allowance, for which early action is requested.

Please charge any fees or overpayments that may be due with this response to Deposit Account No. 17-0026.

Respectfully submitted,

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